

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

**CRIMINAL APPLICATION NO.615 OF 2016
IN
CRIMINAL REVISION APPLICATION NO.611 OF 2016**

Madan Vishnu Khalkar & Anr. ... **Applicants**
V/s.
The State of Maharashtra ... **Respondent**
.....

Mr.Sanjay P. Shinde, Advocate for the Applicants.
Ms.A.A.Takalkar, APP for the Respondent/State.
....

CORAM : P. N. DESHMUKH J.

DATED : 27th OCTOBER 2016.

P.C.

1 Issue notice to respondent. Learned Additional Public Prosecutor accepts notice on behalf of respondent/State of Maharashtra.

2 Heard.

3 Learned counsel for applicants submits that sentence of imprisonment imposed upon applicant be suspended and he be released on bail, as according to applicants no charge levelled against applicants under section 353 of the Indian Penal Code (In short, "the IPC") can be said to be established as evidence of P.W.No.1 Sharad Desale does not even state about any quarrel alleged by prosecution to have taken place

on 04/11/2006 at 12.15 p.m. It is further contended that only on the evidence of police constable, who is examined as P.W.No.3, applicants came to be convicted and that though prosecution has examined P.W.No.4 another police constable, who claims to be present at the time of incident on seeing the mob on the road, his presence is not stated by P.W.No.3. In the circumstances, it is submitted that applicants since were on bail pending trial and appeal, application be allowed.

4 Applicants are convicted for the offence punishable under Section 353 and 332 of the IPC and sentenced to suffer simple imprisonment for six months on both counts, which sentences are directed to run concurrently. Considering the short sentence imposed and as applicants were on bail pending trial, application is allowed as per order below :

- i) Applicant Nos.1 and 2 shall be released on bail on their executing personal bond in the sum of Rs.15,000/- each with one surety each in like amount.
- ii) While on bail, applicants shall mark their presence with Gangapur Police Station, District Nashik once in three months on first day of such month pending revision.
- iii) Applicant shall submit proof of their address to the Gangapur Police Station and update the change in address , if any, in future.

(P. N. DESHMUKH J.)